

BIDDING PROCEDURES

STEP ONE: Bid Deadline: April 15, 2011 at 4:00 p.m. (Eastern Standard Time)

Panzar KFC Food, LLC, 175-46 Hillside Avenue, LLC, 495 Nostrand Avenue, LLC, 1667 Pitkin Avenue, LLC, 1040 Bedford Avenue, LLC, 1556 Myrtle Avenue, LLC, 666 Bushwick Avenue, LLC, 1994 Atlantic Avenue, LLC, 707 Lenox Avenue, LLC, 90 Fourth Avenue, LLC, 1922 Third Avenue, LLC, 140-04 Queens Boulevard, LLC., Debtors and Debtors-in-Possession (the “Debtors”) seek to solicit bids (“Bid”) for the sale of the bankruptcy estates right, title and interest in substantially all of the Debtors’ locations and the assets at those locations, including the respective franchise agreements between the Debtors as franchisees and KFC Corporation (“KFCC”), as franchisor (as that term is defined below), free and clear of all liens, claims and encumbrances, with such liens, if any (the “Liens”), to attach to the net proceeds of sale after deduction of sale expenses including but not limited to marketing agent and broker commissions and fees and attorney fees. The Debtors’ cases are pending before the Honorable Robert E. Grossman, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, NY.

Agreements among buyers at auctions not to bid against each other for the purpose of purchasing goods at low and non-competitive prices is a violation of Section 363(n) of the Bankruptcy Code and may subject the buyer to, among other things, punitive damages and can also be a criminal violation of the Federal Anti-Trust laws, punished by heavy fines and

imprisonment. The Sherman Act prohibits bid rigging agreements among competitors if they affect or restrain interstate commerce. Anyone suspected of bid rigging, in addition to being subject to the Debtors' claims under Section 363(n) of the Bankruptcy Code, will be reported to the Department of Justice for investigation and prosecution.

The address for each of the Debtors' KFC ® franchise locations are identified below:

Debtor	Store Location
Panzar KFC Food LLC	
175-46 Hillside Ave LLC	175-46 Hillside Ave Jamaica, NY
495 Nostrand Ave LLC	495 Nostrand Ave Brooklyn, NY 11216
1040 Bedford Ave LLC	1040 Bedford Ave Brooklyn, NY 11205
1667 Pitkin Ave LLC	1667 Pitkin Ave Brooklyn, NY 11212
140-04 Queens Blvd LLC	140-04 Queens Blvd Jamaica, NY 11435
1922 Third Ave LLC	1922 Third Ave New York, NY 10029
90 Fourth Avenue LLC	90 Fourth Avenue New York, NY 10003
707 Lenox Ave LLC	707 Lenox Ave New York, NY 10039
1994 Atlantic Ave LLC	1994 Atlantic Ave Brooklyn, NY 11233
666 Bushwick Ave LLC	666 Bushwick Ave Brooklyn, NY 11221
1556 Myrtle Ave LLC	1556 Myrtle Ave Brooklyn, NY 11237

(Individually, each franchise together with all assets located therein will be referred to as

a "Location" and collectively as "Locations". [The leased locations only, without the](#)

accompanying franchise agreement or the equipment will be referred to as “Leased Premises”).

In order to solicit the highest or best Bids for the purchase and sale of the Location(s) or the Leased Premises (either individually or in bulk), the Debtors are conducting a three-step auction process. The first step is the submission of binding, sealed bids in the form as described below in Section “B” (the “Required Bid Documents”). Once the Required Bid Documents are received, the Debtors and their professionals, including their attorneys and David R. Maltz & Co., Inc. (“Maltz”)(collectively “Debtors Professionals”) together with the Creditor’s Committee and its attorneys (“Committee Counsel”) will review and select, at their sole and absolute discretion, the top five (5) highest or best bidders for each individual Location and/or Leased Premises, and the top five (5) highest or best bidders for a bulk bid for all the Locations and/or Leased Premises, to participate in the Auction Sale (as described below). For the sale of the Location(s), ~~t~~The Debtors, Debtors Professionals, Creditor’s Committee and Committee Counsel reserve the right to submit additional bidders to KFCC for approval. KFCC will advise the Debtors Professionals that such **non** Current Growth Ready KFC Franchisee Bidder is preliminary approved or rejected within six (6) weeks of submission. KFCC will advise the Debtors Professionals that such Current Growth Ready KFC Franchisee Bidder is preliminary approved or rejected within three (3) weeks of submission. For purposes of these Bid Procedures, KFCC’s preliminary approval shall mean and include: (a) advising the Debtors Professionals, if such Bidder is a Current Growth Ready Certified KFC Franchisee, the number of stores such Bidder is approved to expand; (b) whether such Bidder is required to complete KFCC training or

additional KFCC training; (c) whether the Bidder meets the required financial qualification to Bid on one or more of the Locations; and (d) whether KFCC is aware of, or knows of, any other reason that such Bidder would not be approved as a KFC franchisee (the "Preliminary Approval"). Only Approved Bidders (as described below) will be allowed to submit a competing Bid at the Auction Sale.

The second step is an auction that is open only to those bidders who have submitted Qualified Bids (as described below) and who have been deemed Approved Bidders. The auction sale shall be held on **June 9, 2011 @ 1:00 p.m.** at the New York LaGuardia Airport Marriott, 102-05 Ditmars Blvd, East Elmhurst, NY 11369 (the "Auction Sale").

The third and final step is that, following the conclusion of the Auction Sale, the Debtors Professionals will submit the Successful Bidder or Backup Bidder (each as defined below and their respective bids for Final Approval (as described below) to KFCC (if for the Location(s)) and the Bankruptcy Court. As set forth below, KFCC shall have twenty-five (25) days, after its notice to the Debtors acknowledging its receipt of the requested information and documents from the Successful Bidder or Backup Bidder (for the Location(s)), to advise the Debtors of its approval or non-approval of the Successful Bidder or Backup Bidder for the Location(s). The Successful Bidder and Backup Bidder for the Leased Premises (if any), and the Successful Bidder and Backup Bidder for the Location(s) (if any) that receive Final Approval from KFCC, will then be submitted for approval to the United States Bankruptcy Court, Eastern District of New York (the "Court"). The Debtors reserve the right, on notice to KFCC and all interested parties, to seek approval of the Successful Bidder or Backup Bidder for a Location or Locations if

KFCC does not provide Final Approval of the Successful Bidder and Backup Bidder [for a Location or Locations](#). The Debtors and KFCC agree that any disputes as to whether a Bidder should be approved as a Successful Bidder or Backup Bidder [for a Location or Locations](#) will be determined by the Bankruptcy Court.

[If you are bidding for one or more Locations, u](#)~~Unless~~ you are a Current Growth Ready Certified KFC Franchisee [you must submit the Required Bid Documents so as to](#) be actually received by David R. Maltz & Co., Inc. (“Maltz”) no later than 4:00 p.m.

(Eastern Standard Time) on April 15, 2011, ~~(the “Bid Deadline”).~~ If you are a Current Growth Ready Certified KFC Franchisee, [or you are only bidding for some or all of the Leased Premises](#), you must submit the Required Bid Documents so as to be actually received by Maltz no later than 4:00 p.m. (Eastern Standard Time) on May 13, 2011. In order to be considered by the Debtors, the original set of the Required Bid Documents along with the “Deposit” (as defined below) must be submitted to Maltz at the following address on or before the [applicable bBid dDeadline set forth above](#).

Richard B. Maltz
David R. Maltz & Co., Inc.
155 Terminal Drive
Plainview, New York 11803
Phone No. 516-349-7022, fax no. (516) 349-0105
Email: rmaltz@maltzauctions.com

With copies to:

Lazer, Aptheker, Rosella & Yedid, P.C.
225 Old Country Road
Melville, NY 11747
Attention: Robin S. Abramowitz, Esq.
Phone No. (631) 761-0870, fax no. (631) 761-0701
Email: abramowitz@larypc.com

Thaler & Gertler LLP
90 Merrick Avenue, Suite 400

East Meadow, New York 11554
Attention: Andrew M. Thaler, Esq.
Phone No. (516) 228-3553, fax no. (516) 228-3396
Email: thaler@thalergertler.com

Each bidder (a “Bidder” and collectively, the “Bidders”), as a consequence of submitting a Bid for any or all of the Locations [or Leased Premises](#), shall be deemed to acknowledge (a) that any sale, assignment or other disposition of each of the Locations shall be without representations or warranties of any kind, nature or description by the Debtors, their agents, representatives, consultants and/or attorneys or professionals; (b) that it is bound by these Bidding Procedures; (c) that it had an opportunity to, or waived any right to, inspect and examine the applicable lease(s) and all other pertinent documents with respect thereto, prior to making its Bid and that each such Bidder relied solely on that review and upon its own investigation and inspection of the Locations in making its Bid; and (d) that the Bidder is not relying upon any written or oral statements, representations, or warranties of the Debtors or KFCC, or their respective agents, representatives, consultants, attorneys and/or other professionals.

Information concerning each of the Locations is subject to a confidentiality agreement and available through Maltz and on its web site www.MaltzAuctions.com. Copies of financial information, leases, franchise agreements and other pertinent documents will be available for inspection prior to the Auction Sale during regular business hours by appointment at Maltz’ offices or will be provided to parties upon written request to Maltz. All documents are also available via virtual data room with access provided by contacting Richard Maltz at rmaltz@maltzauctions.com.

A. Reservation of Rights

Notwithstanding anything to the contrary set forth herein, after consultation with Debtors Professionals, the Debtors may, in their sole and absolute discretion (a) enter into agreements for the disposition of one or more of the Locations [or Leased Premises](#), through a stalking horse Bidder, subject to higher or better offers, and/or (b) withdraw from sale any of the Locations [or Leased Premises](#) prior to or during the Auction Sale, and/or (c) reject any and all Bids for a particular Location [or Leased Premises](#) at any time prior to the entry of an order of the Court approving such transaction. In the event that the Debtors determine to withdraw any Location [or Leased Premises](#) from the Auction Sale prior to the Auction Sale, the Debtors shall notify any party who submitted a Bid with respect to the Location [or Leased Premises](#) of such withdrawal.

B. Required Bid Documents

All Bid Packages must include the following Required Bid Documents:

- (a) Offer: A written offer and Bidder Registration in the form attached hereto as Exhibit 1 for the purchase of one or more of the Locations [or Leased Premises](#) that must include and separately allocate the amount being offered for each such Location [or Leased Premises](#), and if in bulk, separately identify the bulk bid price and the allocation of the bulk bid price to the corresponding Locations [or Leased Premises](#). Such written offer must expressly:
 - (i) state that the Bidder's offer is irrevocable until the Closing and consummation by the Bidder, and
 - (ii) fully disclose the identity of each entity, including all equity owners in such entity, that will be bidding for a Location [or Leased Premises](#) or otherwise participating in such Bid, and the complete terms of any such participation.
- (b) Deposit: A cashier's or certified check for the Deposit (as defined herein).
- (c) KFCC Application: Each Bidder [of a Location or Locations](#) shall contact Maltz in order to obtain the documents KFCC shall require to be completed by the Bidder. Each Bidder shall complete and execute an application and such other documents as required by KFCC and include

those documents as part of its Bid Package. In the application documents the Bidder shall advise whether the entity submitting the Bid is an existing KFC franchisee.

- (d) Financial Information: Written evidence of a commitment for financing or other evidence of ability to consummate promptly the transaction (such as a current financial statement or copies of Bidder's bank account statements for each of the three months preceding the Auction Sale). Offers for Locations must also contain evidence of adequate assurance of future performance by Bidder, as contemplated by Section 365 of the Bankruptcy Code.
- (e) Other Information: Any other information that the Debtors or Debtors Professionals may reasonably request.

All Bids (including Bids, Qualified Bids (as defined below), and subsequent written and/or oral bids) shall remain open and irrevocable until the Closing or the date that such Bid has been rejected by the Debtors.

C. Qualified Bids

Unless such requirement is waived by the Debtors in their sole and absolute discretion, in consultation with Debtors Professionals, ONLY BIDDERS THAT HAVE SUBMITTED QUALIFIED BIDS SHALL BE ELIGIBLE TO PARTICIPATE IN THE APPROVAL PROCESS AUCTION SALE. In order for a Bid to be a "Qualified Bid," a Bid shall:

- (a) Include each of the Required Bid Documents (as defined in Section "B"), executed (as applicable) and in form and substance acceptable to the Debtors;
- (b) Be a good faith, bona fide, offer to purchase one or more of the Locations or Leased Premises;
- (c) Not be contingent on obtaining financing or due diligence;
- (d) Be actually received by the Bid Deadline;
- (e) If the Bid is for more than one Location or Leased Premises, an allocation of the purchase price for each Location or Leased Premises;

- (f) Demonstrate to the Debtors the Bidder's ability to consummate promptly the purchase of the Location(s) [or the Leased Premises as the case may be](#), and demonstrate the ability to fulfill its obligations under such leases and franchise agreements, if applicable, including, without limitation, an ability to provide adequate assurance of future performance; and
- (g) Be one of the top five (5) highest or best Bids for an individual Location [or Leased Premises](#), or the top five (5) highest or best bids for a bulk bid for all the Locations, [or Leased Premises](#) as determined by the Debtors, in consultation with Debtors Professionals.

Maltz will notify those parties who have submitted Qualified Bids [for Location\(s\)](#) on or before 5:00 pm on April 25, 2011 whether their respective bids have been presented to KFCC for Preliminary Approval. For **non** Current Growth Ready KFC Franchises KFCC shall, within six (6) weeks of the submission of the Qualified Bids [for Location\(s\)](#) and for Current Growth Ready KFC Franchises KFCC shall, within three (3) weeks of the submission of the Qualified Bids [for Locations](#), provide a preliminary letter of approval or rejection to Debtors Professionals and the Committee Counsel regarding each of the Qualified Bids along with the information to be contained in the preliminary approval. The Debtors Professionals and the Committee Counsel reserve the right to seek clarification from KFCC regarding any rejected Qualified Bidder [for Location\(s\)](#) and to submit to KFCC such additional Qualified Bidder(s) [for Location\(s\)](#) as the Debtors and the Creditor Committee deems appropriate in their sole and absolute discretion. Maltz shall promptly notify those Bidders who have been selected as Approved Bidders. [On or before June 2, 2011 Maltz shall notify all Bidders whether they are the top bidders and have been invited to participate in the open outcry Auction on June 9, 2011.](#)

D. Approved Bidders

An approved bidder is one who has submitted a Qualified Bid and has received Preliminary Approval, [if applicable](#). (“Approved Bidder”). Only Approved Bidders are authorized to participate in the open Auction Sale process.

E. Cure Obligations

The Debtors will provide the Landlords and KFCC with a Cure Schedule as to each Location on or before April 15, 2011, (the “Cure Obligations”).

If a landlord or KFCC disagree with the Cure Obligations, such landlord or KFCC must serve upon Debtors Professionals and Committee Counsel, at the addresses listed above by no later than 5:00 p.m. on the 16th day of May, 2011 (the “Cure Statement Deadline”), a written statement containing a representation of the exact amount of arrears alleged to be owed under the applicable lease or franchise agreement, plus any other defaults alleged to exist, including all amounts which must be paid as a condition for assuming and assigning the lease or franchise agreement pursuant to Section 365(b) of the Bankruptcy Code, together with copies of all supporting documentation necessary to allow the Debtors to determine the accuracy of the alleged arrears (the “Cure Statement”). Parties who fail to serve a complying Cure Statement by the Cure Statement Deadline shall not receive any other cure payment upon the assumption and assignment of their leases or franchise agreements, as applicable, except for such other Cure Obligations that may accrue after the Cure Statement Deadline. In the event the Debtors or any other party in interest disagrees with the Cure Statement, [Debtors will promptly file](#) an appropriate motion ~~will be promptly filed~~ with the Court.

F. Deposit Requirement

Each Bidder shall tender a deposit equal to the greater of (a) ten percent (10%) of the Bid amount for each Location [or Leased Premises](#) on which the Bidder submits a Bid

or (b) \$25,000 for each Location or Leased Premises on which the Bidder submits a Bid or \$250,000 for a bulk bid for all ~~eleventen~~ Locations or Leased Premises (the "Deposit"). The Deposit shall be by bank, cashier's or certified check payable to "Lazer, Aptheker, Rosella & Yedid P.C.'s escrow agent" and shall be delivered to Maltz as part of the Required Bid Documents. **Personal checks and corporate checks will not be accepted.** Upon receipt, Maltz shall immediately turn over the Deposits to Lazer, Aptheker, Rosella & Yedid P.C. who shall hold them in escrow until the Auction Sale and shall continue to hold the Deposit of the first highest or best Bidder (the "Successful Bidder") at the Auction Sale and the Deposit of the second highest and best Bidder (the "Backup Bidder") at the Auction Sale. Lazer, Aptheker, Rosella & Yedid, P.C. will return the Deposits of all other Bidders within three (3) business days of the conclusion of the Auction Sale, or sooner, if such Bidder is not the Successful or Backup Bidder. In the event that the Debtors do not consummate a sale of a Debtors' interest in one of the Locations or Leased Premises with respect to which a Qualified Bid has been made, for any reason other than the Bidder's failure to consummate a sale the Debtors, ~~and~~ the Debtors Professionals' sole obligation and liability shall be to refund the Deposit to the Bidder. The Debtors reserve the right to hold the Deposits of the Successful Bidder and Backup Bidder. Deposits of the Backup Bidders will be returned within five (5) business days of the Closing of the sale of a Location or Leased Premises to a Successful Bidder, but in no event later than September 1, 2011 for the sale of Leased Premises unless otherwise agreed to in writing by the Debtors and the Backup Bidders. Lazer, Aptheker, Rosella & Yedid, P.C. shall, however, return the Deposit of any Bidder who is not

deemed an Approved Bidder within five (5) days of the determination that such Bidder is not an Approved Bidder.

STEP TWO: The Auction Sale: June 9, 2011, at 1:00 p.m. (Eastern Standard Time) at New York LaGuardia Airport Marriott, 102-05 Ditmars Blvd, East Elmhurst, NY 11369

G. The Auction Sale

The Debtors shall conduct an open Auction Sale with respect to some or all of the Locations [or Leased Premises](#) on June 9, 2011 commencing at 1:00 p.m. (Eastern Standard Time) at the New York LaGuardia Airport Marriott, 102-05 Ditmars Blvd, East Elmhurst, NY 11369. One or more representatives from KFCC and its counsel shall be authorized to attend the Auction Sale. The Debtors reserve the right to change the location and time of the Auction Sale. Only those Bidders who are deemed Approved Bidders will be allowed to participate at the Auction Sale.

Opening bid amounts for each Location [or Leased Premises](#) may be announced and/or posted at or prior to the Auction Sale. Such opening bid amounts will be established by the Debtors Professionals in accordance with the bids received prior to the bid deadline. All bidding shall be in increments determined by the Debtors Professionals. Opening bids and subsequent bidding increments may be modified by the Debtors Professionals during the Auction Sale.

Unless otherwise indicated, the Auction Sale will encompass: (a) the real property lease and all improvements thereto related to each Location; (b) the KFCC franchise agreement associated with each Location; and (c) all personal property, including, but not limited to, furniture, fixtures and equipment and inventory appurtenant to such Location. In no event will the personal property associated with any particular Location be divided

into lots and sold piecemeal. [The Auction Sale can also encompass the sale of only the real property leases and all improvements related to that premises.](#) The Auction Sale does not contemplate the sale of any other property of the estates, including, but not limited to, any cause of action under applicable state or federal law or any cause of action arising under Bankruptcy Code Sections 542-553.

The Debtors contemplate proceeding on two (2) tracks at the Auction Sale.

First Track: The First Track shall consist of Approved Bidders interested in purchasing all of the Debtors' Locations [or Leased Premises](#) (the "Bulk Bid"). In the event a Bulk Bid is determined to be the Successful Bidder, then such Approved Bidder must (a) provide adequate assurance of future performance with respect to all of the leases that will be assumed and assigned to the Successful Bidder; [and in addition](#) (b) [for purchase of Location\(s\); \(i\)](#) execute an assignment and assumption of the obligations of the Debtors' with respect to the KFC franchise agreements for all of the Locations, [\(iie\)](#) provide all information and execute all documents as may be reasonably required by KFCC, and [\(diij\)](#) be in compliance with all rules and regulations regarding the assignment of the KFCC franchise agreements for the Locations (as those rules and regulations are defined in the various franchise agreements to which a respective Debtors are currently a party, the franchise disclosure documents and applicable law). Track One Approved Bidders are strongly encouraged to review and understand qualification and transfer provisions and terms contained in the (a) the Franchise Disclosure Document, and (b) the particular leases and franchise agreements proposed to be assumed by and assigned to the Bidder, copies of which can be obtained from Richard Maltz at rmaltz@maltzauctions.com. In the event a Track One Approved Bidder is the Successful

Bidder and is unable to close on such transaction for any reason except the failure to obtain Final Approval from the Court, the Debtors will retain such Approved Bidder's Deposit and the Debtors will proceed to closing with the Backup Bidder, provided the Backup Bidder obtains Final Approval from the Court.

Second Track: The Second Track shall consist of those Approved Bidders interested in purchasing one or more, but less than all,– of the Debtors' Locations [or Leased Premises](#). In the event a Second Track Approved Bidder is the Successful Bidder, such Approved Bidder must (a) provide adequate assurance of future performance with respect to the lease(s) that will be assumed and assigned to the Successful Bidder; [and in addition](#) (b) [for purchase of Location\(s\); \(i\)](#) execute an assignment and assumption of the obligations of the Debtors with respect to the KFC franchise agreement(s) that corresponds to the Location(s), [\(eii\)](#) provide all information and execute all documents as may be reasonably required by KFCC, and [\(diii\)](#) be in compliance with all rules and regulations regarding the assignment of the KFC franchise agreement(s) for the Location(s) (as those rules and regulations are defined in the various franchise agreements to which a respective Debtors are currently a party, the franchise disclosure documents and applicable law). Track Two Approved Bidders are strongly encouraged to review and understand qualification and transfer provisions and terms contained in the (a) the Franchise Disclosure Document, and (b) the particular lease(s) and franchise agreement(s) proposed to be assumed by and assigned to the Approved Bidder, copies of which can be obtained from Richard Maltz at rmaltz@maltzauctions.com. In the event a Track Two Approved Bidder is the Successful Bidder and is unable to close on such transaction for any reason except the failure to obtain Final Approval from the Court, the

Debtors will retain such Approved Bidder's Deposit and the Debtors will proceed to closing with the Backup Bidder if the Backup Bidder obtains Final Approval from the Court.

Subject to the requirement of Final Approval by the Court, the Debtors and Debtors Professionals reserve the right, in their sole and absolute discretion, to determine the highest or best offer and will make such determination as to what they believe, in their business judgment, is in the best interest of the estates.

H. Sale Confirmation Process

At the conclusion of the Auction Sale, the Debtors Professionals will announce, for each of the Locations [or Leased Premises](#), which Bid is the highest or best Bid and which Bid is the second highest or best Bid. An Approved Bidder that is the Successful Bidder for one or more Locations [or Leased Premises](#) shall supplement its Deposit within one (1) business day of the Auction Sale so that, to the extent necessary, such Deposit equals a minimum of twenty percent (20%) of the highest or best Bid accepted by the Debtors at the Auction Sale, after crediting the initial qualifying Deposit.

Subject to the requirement of Final Approval by the Court, the ~~Debtors and~~ Debtors Professionals [and Committee Counsel](#) reserve the right, in their sole and absolute discretion (a) to determine which Bid, if any, for any or all of the Locations [or Leased Premises](#), is the highest or best Bid and to determine the second highest or best Bid, (b) to reject at any time prior to the entry of a Sale Confirmation Order (as described below), whether prior or subsequent to the Auction Sale, any Bid which the ~~Debtors and~~ Debtors Professionals [and Committee Counsel](#) in their sole and absolute discretion, deem to be (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy

Code, the Bankruptcy Rules, the Local Bankruptcy Rules or these Bidding Procedures, or (iii) contrary to the best interests of each respective Debtors' estate and their respective creditors and (c) to withdraw before the Auction Sale any Location or Leased Premises from the Auction Sale and/or enter into appropriate separate transaction agreements respecting the sale of such Location or Leased Premises including, without limitation, "stalking horse" agreements and seek separate approval by KFCC, if applicable, and the Court for such sales. The Debtors shall have no obligation to accept or submit for Court approval any Bid. Further, circumstances could arise where the Debtors and Debtors Professionals deems it necessary to change the Bidding Procedures. Accordingly, the Debtors and Debtors Professionals reserve the right, after consultation with Maltz and his professionals, at or before the Auction Sale, to impose such other or additional terms and conditions and/or may modify these Bidding Procedures, as it determines to be in the best interests of the respective Debtors' estates and their creditors so long as such other or additional terms and conditions or other modifications do not restrict the right of KFCC to grant or withhold its Final Approval on the sale of Location(s).

Upon conclusion of the Auction Sale, but not later than three (3) business days thereafter, with respect to all Locations or Leased Premises for which there is a Successful Bidder, the Debtors and Debtors Professionals will provide written notice to all affected landlords and KFCC (for sale of Locations) via facsimile, overnight mail or e-mail, containing the following information (a) the names of the Successful Bidder and Backup Bidder for the particular Location or Leased Premises, and (b) the evidence of adequate assurance of future performance which was submitted by the Successful Bidder and Backup Bidder as part of the Required Bid Documents. For those three Leased

Premises where KFCC is secondarily liable by reason of its having originally assigned the leases to Debtors, where the Successful Bidder and/or Backup Bidder only bid for the Leased Premises, the lease(s) will be assumed and assigned on the condition that KFCC is released from its liability under such lease or is otherwise indemnified from liability by the Successful Bidder or Backup Bidder for claims arising and relating to the period following the Closing on the assignment of such lease and the landlords for the affected lease(s) and KFCC will be given notice of same within three (3) business days upon conclusion of the Auction Sale via facsimile, overnight mail or e-mail. In the event that the landlords of the affected lease(s) and/or KFCC object to the release of liability or the indemnification being offered, the Debtors, Debtors Professionals and/or –Committee Counsel ~~reserve the right, notwithstanding such objection, to~~ shall be required to seek court approval of the Successful Bidder or Backup Bidder for affected Leased Premises from the Bankruptcy Court, on notice to KFCC, the affected landlord(s) and all parties in interest before the assignment of the affected lease(s) can be consummated ;

STEP THREE: Final Approval by KFCC; The Sale Confirmation Order; The Closing

I. Final Approval by KFCC

Upon receipt of written notice from the Debtors Professionals containing the aforesaid information concerning the Successful Bidder and Backup Bidder for Location(s), but not later than five (5) days thereafter, KFCC shall provide to each Successful Bidder and Backup Bidder requests for additional information and additional documents as are required by KFCC to determine whether to approve a proposed sale of the number of Locations to be sold to each such Successful Bidder and Backup Bidder.

The Successful Bidder or Backup Bidder [for Location\(s\)](#) shall provide such additional information to KFCC within five (5) days. Upon receipt of all such information and documents with respect to each respective Successful Bidder and Backup Bidder KFCC shall provide written notice to the Debtors Professionals of receipt of all such information and documents. KFCC reserves the right to require additional information and documents from each Successful Bidder and Backup Bidder during the approval process.

KFCC shall, within twenty five (25) days after its notice to the Debtors Professionals of their receipt of the requested information and documents, inform the Debtors Professionals in writing whether KFCC has provided Final Approval of the Successful Bidder or Backup Bidder [for Locations](#), which such approval shall not be unreasonably withheld. In the event that KFCC rejects a Successful Bidder or Backup Bidder [for Location\(s\)](#) and its respective Bid, KFCC shall provide to the Debtors Professionals in writing the material reasons for such rejection. The Debtors, Debtors Professionals and Committee Counsel reserve the right, notwithstanding such rejection, to seek approval of the Successful Bidder or Backup Bidder [for Location\(s\)](#) from the Bankruptcy Court, on notice to KFCC and all parties in interest.

J. The Sale Confirmation Order

(a) For those Approved Bidders whom the ~~Debtors and~~ Debtors Professionals [and Committee Counsel](#) have determined are the Successful Bidder(s) and/or the Backup Bidder(s), after the Debtors Professionals [and Committee Counsel](#) have received Final Approval from KFCC following the Auction Sale [for the sale of the Location\(s\)](#), the Debtors Professionals and/or Committee Counsel may submit those Successful Bidder(s) and/or Backup Bidder(s) and their respective Bids to the Court and request the entry of an

Order approving such transaction (the “Sale Confirmation Order”). KFCC approval will not be necessary for submission to the Bankruptcy Court for approval of the sale of Leased Premises without Locations.

(b) For those Approved Bidders whom the ~~Debtors and~~ Debtors Professionals and Committee Counsel have determined are the Successful Bidder(s) and/or the Backup Bidder(s) of Location(s) and that KFCC has not approved, and in which the ~~Debtors and~~ Debtors Professionals and/or Committee Counsel dispute, following the Auction Sale, the Debtors, Debtors Professionals and/or Committee Counsel may submit such Successful Bidder and/or Backup Bidder and their respective Bids for Location(s) to the Court for approval and request the entry of a Sale Confirmation Order. The Debtors Professionals and/or Committee Counsel shall schedule a hearing on notice to KFCC and all parties in interest of the scheduled hearing date.

(c) The Debtors and Debtors Professionals shall have no obligation to accept or submit for Court approval any Bid. Unless otherwise agreed between the Debtors and KFCC, if the Bid of a Successful Bidder or Backup Bidder for Location(s) of a **non** Current Growth Ready KFC Franchisee, is approved by the Court, the Sale Confirmation Order shall provide that the Closing of such transaction shall be contingent upon such Successful Bidder or Backup Bidder of Location(s) successfully completing all training required by KFCC prior to the Closing. The Debtors and Debtors Professionals reserve the right to contest whether such Successful Bidder or Backup Bidder is required to complete such training prior to Closing. In the event of such a dispute, the Debtors and Debtors Professionals shall schedule a hearing on notice to KFCC and all parties in interest of the scheduled hearing date.

K. The Closing

The closing (the “Closing”) in connection with the Auction Sale shall take place at the offices of Lazer, Aptheker, Rosella & Yedid, P.C., 225 Old Country Road, Melville, NY 11747 (or another location mutually acceptable to the parties). If the Successful Bidder is an existing Current Growth Ready KFC franchisee for which no additional training is required [or is a purchase of Leased Premises only](#), then the Closing shall occur within ten (10) days following the entry of the Sale Confirmation Order with each such Successful Bidder, or as otherwise agreed to between the respective parties in writing. If the Successful Bidder is **non** Current Growth Ready KFC Franchisee or is a Current Growth Ready KFC Franchisee for which additional training is required, the Closing shall occur within ten (10) days following such Successful Bidder successfully completing all training required by KFCC prior to the Closing, or as otherwise agreed to between the respective parties in writing. WITH RESPECT TO EACH OF THE CLOSINGS, TIME OF PERFORMANCE BY EACH SUCCESSFUL BIDDER IS OF THE ESSENCE.

Upon failure to consummate a sale of some or all of the Locations [or Leased Premises](#) after the Sale Confirmation Order because of a breach or failure on the part of a Successful Bidder with respect to such Locations [or Leased Premises](#), the Backup Bidder, as disclosed at the Auction Sale, with respect to some or all of such Location [or Leased Premises](#), shall be deemed the Successful Bidder with respect to those Locations [or Leased Premises](#) without further order of the Court, and shall proceed to Closing in accordance with the terms set forth herein within ten (10) days of notice of same. Without limiting the right of the Debtors to seek recovery of actual or additional

damages, the Debtors shall retain the Deposit of any Successful Bidder who fails to close the transaction because of a breach or failure by such Successful Bidder and such Deposit shall be deemed forfeited by such defaulting Successful Bidder and shall not be credited against the purchase price paid by the Backup Bidder which shall be the new Successful Bidder.

The balance of the purchase price shall be paid by the Successful Bidder by bank, cashier's or certified check at the Closing.

At the Closing on the assumption and assignment of a lease, all undisputed cure amounts owed to a landlord, if any, shall be paid by the Debtors to the landlord and any disputed amounts shall be reserved pending the agreement of the parties or, if an agreement cannot be reached, further Order of the Court. No dispute regarding cure amounts shall delay any Closing, and each Successful Bidder shall be required to consummate their respective Closing notwithstanding pending disputes, if any, regarding cure amounts.

At Closing, any adjustments related to rent, sewer charges, utilities, security deposit(s) or other charges incident to operating the Debtors' Locations [or Leased Premises](#) shall be paid by the Successful Bidder or Backup Bidder.

At Closing in addition to the purchase price, the Successful Bidder or Backup Bidder [for Location\(s\)](#) agrees to pay Debtors for and Debtors agree to sell, transfer and deliver to Successful Bidder or Backup Bidder all useable inventory, including food goods, paper goods, current promotional items on hand and cash in registers at time of Closing with the price to be determined at Debtors' actual cost. Inventory and receipts to the date of sale shall also be adjusted as of midnight prior to the date of Closing. The

cash shall be based on the amount of cash in the registers at the opening of each Location on the date of the Closing.

L. KFCC Right of First Refusal

KFCC has asserted that it has, pursuant to the franchise agreements with the respective Debtors, a right of first refusal (“Right of First Refusal”) in connection with the transfer of any franchise.

The Debtors believe that this Right of First Refusal is void as against the public policy of the Bankruptcy Code requiring free alienability of the Debtors’ Locations, subject to Bankruptcy Court approval, and is at odds with Section 363 of the Bankruptcy Code, which provides that the Debtors seeking to sell its Locations must obtain the “highest and best” price available for such Locations. KFCC believes that its right of first refusal is enforceable under applicable bankruptcy law and trademark law in connection with the proposed assumption and assignment of its franchise agreements because a non-exclusive trademark license, such as a franchise agreement, is personal and may not be assigned by the Debtors without the consent of the licensor. In order to avoid the necessity of any litigation arising therefrom, KFCC has agreed, in these cases only, to not exercise its right of first refusal under the respective franchise agreements only with respect to the Successful Bidders and Backup Bidders that obtain Final Approval by the Court. Nothing contained herein shall be deemed a waiver of KFCCs right to seek to enforce this provision in any other case or through applicable law in any jurisdiction-or proceedings.

M. Transfer Fee Payable to KFCC

In addition to the purchase price, [if applicable](#), the Successful Bidder shall pay, at Closing, the required transfer fee to KFCC in connection with the transfer of each of the Locations. The transfer fee shall be that amount as set forth in the franchise agreement for each of the respective Locations.

N. Disclaimer

1. As Is. Where Is. Any sale, assignment or other disposition of each of the Locations [or Leased Premises](#) shall be without representations or warranties of any kind nature or description by the Debtors or KFCC, or their respective agents, representatives, consultants and/or attorneys. Each of the Locations [or Leased Premises](#) shall be transferred on an “As Is” and “Where Is” basis.
2. Information for Informational Purposes Only. Any and all information and/or documentation provided to prospective “Bidders”:
 - (a) has been prepared for informational purposes only;
 - (b) has been prepared from materials supplied by the Debtors; and
 - (c) is being furnished through the Debtors and Debtors Professionals solely for use by prospective buyers in considering their interest in acquiring the Locations.

By accepting documents and data from the Debtors and/or Debtors Professionals, the recipient acknowledges and agrees that: The information provided by the Debtors and/or Debtors Professionals has been prepared to assist interested parties in making their own evaluation of the Locations [or Leased Premises](#) and does not purport to be all-inclusive or to contain all of the information that a prospective buyer may desire. In all

cases, interested parties should conduct their own investigation and analysis of each of the Debtors' Locations [or Leased Premises](#), conduct site inspections and scrutinize the information. The Debtors and Debtors Professionals have assumed no responsibility for independent verification of any of the information contained herein and has not in fact in any way audited such information. The Debtors, Debtors Professionals and/or other advisors and KFCC and their respective affiliates and representatives are not making nor will they make and expressly disclaim making any written or oral statements, representations, warranties, promises or guarantees, whether express, implied or by operation of law or otherwise, with respect to the Locations [or Leased Premises](#) and with respect to the accuracy, reliability or completeness of the information, except as expressly stated in any documents filed with the Court and stating as such. The Debtors and Debtors Professionals and KFCC expressly disclaim any and all liability based on or relating or pertaining to any written or oral statements, financial information, projections, representations, warranties, promises or guarantees, whether express, implied or by operation of law or otherwise.

O. Miscellaneous Terms of Sale

Subject to Bankruptcy Court approval, each of the respective Debtors' estates' right, title and interests in and to the Locations [or Leased Premises](#) shall be sold pursuant to Sections 363 and 365 of the Bankruptcy Code, free and clear of all liens, claims, encumbrances and security interests, if any, which shall attach to the net proceeds received by each of the respective Debtors' estates as a result of the sale after deduction of sale expenses including but not limited to brokerage or marketing agent commission

and fees and attorney fees with the same force, effect and priority that currently exists, subject to further Order of the Court.

Unless otherwise agreed to by the parties at the Auction Sale and approved by the Court, assignments of any lease [in connection with the sale of any Location](#) shall include any and all personal property, inventory, fixtures, trade fixtures or other furnishings or equipment located in or at the premises and owned by the respective Debtors.

All sales, transfer and recording taxes, stamp taxes or similar taxes, if any relating to the assignment of the Leases or the sale of the Locations of the respective Debtors in connection therewith shall be the sole responsibility of the respective Successful Bidder or Backup Bidder and shall be paid to the Debtors at the Closing of each transaction. Such payment shall be in addition to the purchase price.

[In the event there are any pending Health Code Violations resulting in any monetary fines, Debtors will be responsible to pay such fines. Any corrective action shall be the responsibility of the Successful Bidder or Backup Bidder.](#)

No Bid shall be deemed to be “accepted” by the Debtors unless and until the Court has entered the Sale Confirmation Order approving such transaction. No Location [or Leased Premises](#) shall be deemed to have been assumed and assigned by the Debtors and no Location [or Leased Premises](#) shall be deemed to have been sold pursuant to the procedures described herein unless and until the Court has entered a Sale Confirmation Order and such proposed transaction is consummated.

The only commission that will be paid is to the Licensed Real Estate Broker who registers the successful bidder in accordance with the Broker Participation Agreement and has received confirmation of receipt and acknowledgment of valid registration by

Maltz. **Under no circumstances shall the Successful Bidder be responsible to pay any brokerage commission or marketing fee for the purchase of any of the**

Locations or Leased Premises purchased pursuant to these Bidding Procedures. All commissions and fees for all sales and marketing agents and brokers are subject to further order of the Bankruptcy Court which retains exclusive jurisdiction to determine all such fees and commissions. All fees and commissions approved by the Bankruptcy Court shall be paid by the Debtors.

Any and all disputes related to the Bidding Procedures, the Auction Sale, the Final Approval, the Sale Confirmation Order, the sale of any of the Locations or Leased Premises, and the assignment of any of the leases and franchise agreements shall be adjudicated solely by the United States Bankruptcy Court for the Eastern District of New York, at Central Islip, NY. The submission of a Bid shall constitute an express consent to the exclusive jurisdiction of the Bankruptcy Court for all matters related to the Auction Sale and/or the sale of any Location, lease, franchise agreement or any dispute that may arise therefrom.

Lazer, Aptheker, Rosella & Yedid, P.C.

Counsel for Debtors

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225 Old Country Road

Melville, NY 11747

Phone No. (631) 761-0870

Fax no. (631) 761-0701

Email: abramowitz@larypc.com

EXHIBIT “1”

Exhibit 1

OFFER & BIDDER REGISTRATION

Panzar KFC Food, LLC, 175-46 Hillside Avenue, LLC, 495 Nostrand Avenue, LLC, 195-10 Jamaica Avenue, LLC, 1667 Pitkin Avenue, LLC, 1040 Bedford Avenue, LLC, 1556 Myrtle Avenue, LLC, 666 Bushwick Avenue, LLC, 1994 Atlantic Avenue, LLC, 707 Lenox Avenue, LLC, 90 Fourth Avenue, LLC, 1922 Third Avenue, LLC, 140-04 Queens Boulevard, LLC. (the “Debtors”) (collectively, the “Debtors”), seek to solicit bids (“Bid”) for the sale of the bankruptcy estates right, title and interest in substantially all of the Debtors’ leased locations only or the leased locations ~~and together with~~ –the assets at those locations, including the respective franchise agreements between the Debtors as franchisee and KFCC, as franchisor (as that term is defined below), free and clear of all liens, claims and encumbrances, with such liens, if any (the “Liens”), to attach to the net proceeds of sale (“Motion”).

Bidder, _____

does hereby offer to purchase on an all-cash basis the Assets set forth below for the consideration as allocated below:

Bidder hereby warrants and represents as follows:

- (a) This written offer is subject to the terms and conditions of the accompanying contract and “Bidding Procedures.”
- (b) This written offer along with any subsequent verbal bids are irrevocable until the Closing (as defined in the Bidding Procedures) and consummation by the Bidder.
- (c) This written offer is not contingent upon any financing.
- (d) That, except as detailed on an accompanying affidavit, if any, neither Bidder nor any of its officers, directors, shareholders, members or partners is a shareholder, employee, or affiliate of the Debtors, or a relative of a shareholder, employee, or affiliate of the Debtors.
- (e) David Maltz & Co., Inc. (“Maltz”) has been retained by the Debtors to act as the Debtors’ sale and marketing consultant. The Debtors shall be responsible solely to Maltz, Kensington or any other licensed broker who completes the broker participation form in accordance with the guidelines as established by Maltz for brokerage fees in connection with the sales contemplated by the Auction. Bidder will be responsible for, and agrees to indemnify, defend and hold harmless the Debtors and Maltz from and against any brokerage fees or commission claimed by any person asserting entitlement thereto at the alleged instigation of the Bidder for or on account of its Bid and the transaction contemplated in connection therewith.
- (f) That Bidder had an opportunity to, or waived any right to, inspect and examine the Locations (as defined in the Bidding Procedures) identified above and to review the applicable Lease and all other pertinent documents with respect thereto prior

to making its offer and that Bidder relied solely on that review and upon its own investigation and inspection of the Locations in making its offer; that Bidder is not relying upon any written or oral statements, representations or warranties of the Debtors, their agents, representatives, consultants and/or attorneys, or KFCC and/or its representatives, and that Bidder has obtained a complete copy of the “Bidding Procedures” and has read and understood same and agrees to abide by and be bound by such “Bidding Procedures.”

<u>Location</u>	<u>Required Deposit</u>	<u>Bid Amount</u>	<u>Seeking KFC Approval (Yes/No)</u>	<u>Continuing Operation as KFC? (Yes/No)Bid Amount</u>
175-46 Hillside Ave Jamaica, NY				
495 Nostrand Ave Brooklyn, NY 11216				
1040 Bedford Ave Brooklyn, NY 11205				
1667 Pitkin Ave Brooklyn, NY 11212				
140-04 Queens Blvd Jamaica, NY 11435				
1922 Third Ave New York, NY 10029				
90 Fourth Avenue New York, NY 10003				
707 Lenox Ave New York, NY 10039				
1994 Atlantic Ave Brooklyn, NY 11233				
666 Bushwick Ave Brooklyn, NY 11221				
1556 Myrtle Ave Brooklyn, NY 11237				

Total Deposit: _____

Total Bid Amount: _____

|

|
AGREED & ACCEPTED this ____ day of _____ 2011.

By: _____

Name: _____

Title: _____

BIDDER I.D.

Bidder's Address: _____

Bidder's Contact: _____

Bidder's Phone & Facsimile Numbers _____

Bidder's Email Address: _____

Bidder's Tax ID Number: _____

Number of Stores Owned by Bidder and Under what Trade Names: _____

ATTORNEY I.D.

Bidder's Attorney: _____

Bidder's Attorney's Address: _____

Bidder's Attorney's Phone & Facsimile Numbers: _____

Bidder's Attorney's Email Address; _____

BANK REFERENCE

Bank Name & Bank Contact: _____

Bank Address: _____

Bank Contact's Phone Number: _____

GP:2418738 v4

Lazer, Aptheker, Rosella & Yedid, P.C.
Attorneys for Panzar KFC Food, LLC, et al.
Debtors and Debtors-in-Possession
225 Old Country Road
Melville, New York 11747
(631) 761-0800
Robin S. Abramowitz, Esq (RA 0535)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 11

Panzar KFC Food, LLC, et al.¹

Case Nos. 08-10-71705-reg,
08-10-71706-reg, 08-10-71708-reg,
08-10-71709-reg, 08-10-71710-reg,
08-10-71711-reg, 08-10-71712-reg,
08-10-71713-reg, 08-10-71714-reg,
08-10-71715-reg, 08-10-71716-reg,
08-10-71718-reg, 08-10-71719-reg

Debtors.

(Jointly Administered)

-----X

**NOTICE OF BIDDING PROCEDURES, AUCTION DATE AND VENUE
AND HEARING RESPECTING THE SALE OF THE DEBTORS' LOCATIONS**

PLEASE TAKE NOTICE, that pursuant to a motion filed by the above-captioned debtors and debtors-in-possession (the "Debtors") March 8, 2011 (the "Motion"), the United States Bankruptcy Court for the Eastern District of New York (the "Bankruptcy Court") entered an Order (the "Bidding Procedures Order") approving the procedures annexed hereto as Exhibit "A" (the "Bidding Procedures") in connection with an auction (the "Auction") of the Debtors' interests in, *inter alia*, certain non-residential real property leases ("Leased Premises"), franchise agreements with KFC Corporation ("KFCC") with respect to such leased locations, and the furniture, fixtures and equipment appurtenant thereto (collectively, the "Locations"). All

¹ The Debtors in these cases are: Panzar KFC Food, LLC, 175-46 Hillside Avenue, LLC, 495 Nostrand Avenue, LLC, 195-10 Jamaica Avenue, LLC, 1667 Pitkin Avenue, LLC, 1040 Bedford Avenue, LLC, 1556 Myrtle Avenue, LLC, 666 Bushwick Avenue, LLC, 1994 Atlantic Avenue, LLC, 707 Lenox Avenue, LLC, 90 Fourth Avenue, LLC, 1922 Third Avenue, LLC, 140-04 Queens Boulevard, LLC.

inquiries concerning the Leased Premises or the Locations should be made to the Debtors' marketing and sales consultant, David R. Maltz & Co., Inc. ("Maltz"), 155 Terminal Drive, Plainview, New York 11803, Attention: Richard B. Maltz, phone no.: (516) 349-7022, fax no.: (516) 349-0105, email: rmaltz@maltzauctions.com.

PLEASE TAKE FURTHER NOTICE, that in accordance with the Bidding and Auction Procedures (a) interested parties will have the opportunity to make competing offers on the Leased Premises or the Locations and (b) the Debtors will select the highest or best bid for each of the Leased Premises and/or the Locations (or, in their discretion, a bulk bid for all of the assets) and seek approval from the Bankruptcy Court to sell the Leased Premises and/or the Locations to the entity submitting such bid. The Bidding and Auction Procedures contain detailed requirements for the submission of all bids and should be reviewed carefully,

PLEASE TAKE FURTHER NOTICE that pursuant to the Bidding and Auction Procedures, the Auction will be conducted at The New York LaGuardia Airport Marriot, 102-05 Ditmars Blvd., East, Elmhurst, New York, 11369, on June 9, 2011 at 11:00 a.m. (Eastern Standard Time). The Auction may be adjourned from time to time without further notice except by announcement of the adjourned date or dates at the Auction or any adjournment thereof.

PLEASE TAKE FURTHER NOTICE, that the Debtors will seek, among other things, entry of separate, additional order(s) at the Sale Hearings (1) approving pursuant to Sections 363 and 365 of the Bankruptcy Code, the sale of the Leased Premises and/or the Locations free and clear of all liens, claims, encumbrances and security interests, with such liens, claims, encumbrances and security interests to attach to the net sale proceeds with the same validity and priority that currently exists, and (2) a determination, if necessary, of the adequacy of the assurance provided to landlords and KFCC as to future performance under unexpired non-residential real property leases and franchise agreements. The Debtors shall also seek authority to

proceed with the assumption and assignment of the Leases and/or the Locations to any applicable Backup Bidder in the event that a Successful Bidder fails to close its transaction at the Closing. Further any and all objections by the Debtors' landlords to the proposed assumption and assignment of the Leases on the basis of adequate assurance of future performance and other grounds will be heard at the Sale Hearings.

Dated: Melville, New York
April 7, 2011

LAZER, APTHEKER, ROSELLA
& YEDID, P.C.
*Attorneys for Panzar KFC Food, LLC, et al.
Debtors and Debtors-in-Possession*

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